

Whereas, the healthcare industry already has some 45 special statutes to protect it, as documented by the Montana Medical Association in it's *MMA Bulletin* of July/August 2009; and

Whereas, the Montana Medical Association describes the main special pieces of legislation as "qualitatively 'better' than measures in almost all states."; and

Whereas, the healthcare industry's solution to it's perceived problems are always to either reduce Montanan's access to the courts, or to reduce the damages that may be assessed for harms caused by the healthcare industry's failure to conform the care provided to the applicable professional standard of care; and

Whereas, Article II, Section 16 of the Montana Constitution provides that "Courts of justice shall be open to every person, and speedy remedy afforded for every injury of person, property or character."; and

Whereas, the 7th Amendment to the U.S. Constitution protects our right to a trial by jury in civil matters; and

Whereas, these constitutional rights are the impetus of Section 27-1-701 of the Montana Code which provides that "each person is responsible not only for the results of the person's willful acts but also for an injury occasioned to another by the person's want of ordinary care or skill in the management of the person's property or person...."; and

Whereas, HB 464 is another piece of special legislation that sets a higher evidentiary standard for some Montanans harmed by the negligence of a sub-set of the healthcare industry; and

Whereas, HB 464 closes the doors of the courts of justice to some Montanans in violation of their constitutional rights; and

Whereas, the conclusions of the whereas clauses of HB 464 are self-serving, conclusory and unsupported by facts; AND

Whereas, the healthcare industry's previous legislation to either reduce Montanan's access to the courts, or to reduce the damages that may be assessed for harms caused by the healthcare industry's failure to conform the care provided to the applicable professional standard of care NEVER SEEMS TO BE ENOUGH; and

Whereas, the one tried and true way to lower malpractice costs is to lower the number of Montanans harmed by agents of the healthcare industry.

BE IT RESOLVED THAT THE HOUSE BUSINESS AND LABOR COMMITTEE OF THE 2011 MONTANA LEGISLATURE JUST SAY NO TO ANOTHER SPECIAL PIECE OF LEGISLATION FOR THE HEALTHCARE INDUSTRY AND **VOTE NO ON HB 464.**